



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

PROMPT REPLY NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Town of Niagara
7015 Lockport Road
Niagara Falls, NY 14305
Attn: Mr. Lee S. Wallace
Town Supervisor

Re: Request for Information Pursuant to Section 104 of CERCLA
Niagara Town Garage Site, Niagara, Niagara County, New York

Dear Mr. Wallace:

The United States Environmental Protection Agency ("EPA") is charged with responding to the release or threatened release of hazardous substances, pollutants, and contaminants into the environment and with enforcement responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended 42 U.S.C. §§ 9601-9675 (also known as the "Superfund" law). For your information, a copy of the Superfund law may be found at www.epa.gov/superfund/action/law/index.htm.

This letter seeks the cooperation of the Town of Niagara in providing information and documents relating to the Niagara Town Garage Site (the "Site"). The Site includes the real property located at 7105 Lockport Road, including Parcels 131.19-1-17 and 131.20-1-1 in Niagara, Niagara County, New York. EPA believes that the Town of Niagara is the current owner of the Site and, as such, EPA is sending this Request for Information to the Town of Niagara. EPA encourages the municipality to give this letter your immediate attention. A complete and truthful response should be provided to the attached Request for Information **within 21 days** of your receipt of this letter.

EPA has documented the release or threatened release of hazardous substances into the environment at the Site. The Site currently houses a water tower, municipal offices, and a garage to house vehicles from highway, police, water, and sewer departments. Historical aerial photographs indicate previous agricultural use of the Site. EPA is currently investigating pesticides, particularly hexachlorocyclohexane ("HCH"), also referred to as benzene hexachloride ("BHC"), that have been found in surface and subsurface soils located south of the garage.

Under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), EPA has broad information gathering authority which allows EPA to require persons to provide information or documents relating to the materials generated, treated, stored, or disposed of at or transported to a facility, the nature or extent of a release or threatened release of a hazardous substance, pollutant, or contaminant at or from a facility, and the ability of a person to pay for or perform a cleanup. EPA is seeking to obtain information concerning the generation, storage, treatment, transportation, and disposal of hazardous substances, pollutants, or contaminants at the Site.

While EPA seeks the cooperation of the Town of Niagara in this investigation, compliance with this Request for Information is required by law. When your organization has prepared its response to the Request for Information, please sign and have notarized the enclosed "Certification of Answers to Request for Information," and return that Certification to EPA along with your organization's response. Please note that false, fictitious, or fraudulent statements or representations may subject your organization to civil or criminal penalties under federal law. In addition, Section 104 of CERCLA, 42 U.S.C. § 9604, authorizes EPA to pursue penalties for failure to comply with a Request for Information.

Some of the information EPA is requesting may be considered by the Town of Niagara to be confidential. Please be aware that you may not withhold the information upon that basis. If you wish EPA to treat the information confidentially, you must advise EPA of that fact by following the procedures described in the Instructions which follows this letter, including the requirement for supporting your claim for confidentiality.

Please note that if after submitting your response you obtain additional or different information concerning the matters addressed by our Request for Information, it is necessary that you promptly notify EPA. This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44U.S.C. §§ 3501 et seq.

See the enclosed Instructions for information on how to respond to the enclosed questions and/or information requests. Your response to this Request for Information should be mailed to:

Mr. Keith Glenn
Removal Action Branch
U.S. Environmental Protection Agency, Region II
2890 Woodbridge Avenue, Bldg. 205 (MS-211)
Edison, New Jersey 08837

A copy of your reply should be sent to:

Ms. Margo Ludmer, Esq.
Assistant Regional Counsel
New York/Caribbean Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region II
290 Broadway, 17th Floor
New York, New York 10007

If you have any questions regarding this Request for Information, or would like to discuss this matter with EPA, please contact Mr. Glenn at (732) 321-4454. Inquiries from attorneys should be addressed to Ms. Ludmer at (212) 637-3187.

We appreciate and look forward to your prompt response to this information request.

Sincerely yours,

Nicoletta DiForte, Senior Enforcement Policy Advisor
Emergency and Remedial Response Division

Enclosure

Instructions for responding to request for information

A. Directions

1. A complete and separate response should be given for each question. If information or documents responsive to a specific request are not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.
2. Identify each answer with the number of the question and the subpart to which it responds. For each document produced in response to this Request for Information, indicate on the document, or in some other reasonable manner, the question to which it applies.
3. Provide responses to the best of your ability, even if the information sought was never put down in writing or if the written documents are no longer available. Consult with all present and past employees and agents of the Town of Niagara whom you have reason to believe may be familiar with the matter to which the question pertains.
4. In answering each question, identify each individual and any other source of information (including documents) that were consulted in the preparation of the response to the question.
5. If you have reason to believe that an individual other than one employed by the Town of Niagara may be able to provide additional details or documentation in response to any question, state that person's name, last known address, phone number, and the reasons for your belief.
6. If a document is requested but not available, state the reason for its unavailability. To the best of your ability, identify the document by author, date, subject matter, number of pages, and all recipients of the documents with their addresses.
7. If anything is omitted from a document produced in response to the Request for Information, state the reason for, and the subject matter of, the omission.
8. If you cannot provide a precise answer to a question, please approximate but, in any such instance, state the reason for your inability to be specific.
9. Whenever this Request for Information requests the identification of a natural person, or other entity, the person or entity's full name and present or last known address also should be provided.
10. **Confidential Information:** The information requested herein must be provided even though you may contend that it includes confidential business information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. § 9604(E)(7)(e) and (F), and 40 C.F.R. §2.203(b).

If you make a claim of confidentiality for any of the information you submit to EPA, you must prove that claim. For each document or response you claim is confidential, you must separately address the following points:

1. the portions of the information alleged to be entitled to confidential treatment;
2. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
3. measures taken by you to guard against the undesired disclosure of the information to others;
4. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
5. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
6. whether you assert that disclosure of the information would likely result in substantial harmful effects to your position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp or type "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non-confidential documents should be clearly identified. Please submit your response so that all non-confidential information, including any redacted versions of documents, are in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by Section 104(e) of CERCLA and 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice.

B. Definitions

1. The term "person" shall include any individual, firm, unincorporated association, partnership, corporation, trust, non-profit organization or other entity.
2. The term "Site" or "Niagara Town Garage Site" shall mean the property located at 7105 Lockport Road, Niagara Falls, Niagara County, New York, located in the Town of Niagara, Parcel ID # 131.19-1-17 and 131.20-1-1. A map of the Site has been included as Appendix A.
3. The terms "Town of Niagara," "the Town," "you," and "your" refer not only to the Town of Niagara as it is currently named and constituted, but also its divisions, departments, and branches.
4. The term "waste" or "wastes" shall mean and include trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, and pollutants or contaminants, whether solid, liquid, or sludge, including but not limited to containers for temporary or permanent holding of such wastes.
5. The term "hazardous substances" shall have the same definition as that contained in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and includes any mixtures of such hazardous substances, including mixtures of hazardous substances with petroleum products or other nonhazardous substances.
6. The term "industrial waste" shall mean any solid, liquid, or sludge, or any mixture thereof, which possesses any of the following characteristics:
 - a. it contains one or more hazardous substances (at any concentration) as defined in 42 U.S.C. § 9601(14);
 - b. it is a "hazardous waste" as defined in 42 U.S.C. § 6903(5);
 - c. it has a pH less than 2.0 or greater than 12.5;
 - d. it reacts violently when mixed with water;
 - e. it generates toxic gases when mixed with water;
 - f. it easily ignites or explodes;
 - g. it is an industrial waste product;
 - h. it is an industrial treatment plant sludge or supernatant;
 - i. it is an industrial byproduct having some market value;
 - j. it is coolant water or blowdown waste from a coolant system;
 - k. it is a spent product that could be reused after rehabilitation; or
 - l. it is any material that you have reason to believe would be toxic if either ingested, inhaled, or placed in contact with your skin.

7. The term "identify" means:
 - a. with respect to a natural person, to set forth the person's name, present or last known employer, and business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, occupation, position, or business; and,
 - b. with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to provide its full name, address, and a brief description of its business.
8. The term "document" or "documents" shall mean any written, recorded computer generated, or visually or aurally reproduced material of any kind in any medium in your possession, custody, or control or known by you to exist, including originals, all prior drafts, and all non-identical copies.
9. The term "material" or "materials" shall mean any and all objects, goods, substances, or matter of any kind, including but not limited to wastes.
10. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, in which case the statutory definitions shall apply.

REQUEST FOR INFORMATION

1. Please provide the following information regarding the Town's ownership and/or operation of the Niagara Town Garage Site:
 - a. State the dates of the Town's ownership and/or operation of the Site and provide copies of all documents concerning this interest (e.g., deeds, leases, foreclosure records);
 - b. Provide a detailed description of the operations, processes, and business activities that the Town conducted at the Site. If the operations changed over time, indicate the nature of the changes and the dates the changes took place;
 - c. Provide copies of any maps, property plans, or floor plans for the Site;
 - d. Provide any historic photographs including aerial photographs and photographs showing construction, industrial or commercial processes, outfalls, and indoor and outdoor storage areas for materials or products at the Site;
 - e. Provide copies of all reports, information, or data you have related to the geology, soil, water (ground, surface, and storm water), and air quality at the Site;
 - f. Describe any grading, fill, excavation, and dredging activities performed by the Town or by another entity at the Site and indicate if such activity was with or without the Town's approval; and,
 - g. If applicable, describe the cessation of the Town's operations on all or any portion of the Site. Your answer should include, but not be limited to, when the end of operations occurred, how waste material was disposed of, whether any waste material was left onsite, and any cleanup/shutdown work that was undertaken.
2. Identify all known prior owners of the Site. For each prior owner, further identify:
 - a. The dates of ownership of the Site;
 - b. All evidence showing that the owner controlled access to the Site; and
 - c. Any evidence that a hazardous substance, pollutant, or contaminant, was released or threatened to be released at the Site during the period that the individual or entity owned the Site.

3. Identify all known prior operators of the Site, including lessors. For each such operator, further identify:
 - a. The dates of operation of the Site;
 - b. The nature of prior operations at the Site;
 - c. All evidence that the operator controlled access to the Site;
 - d. Any evidence that a hazardous substance, pollutant, or contaminant was released or threatened to be released at or from the Site and/or its solid waste units during the period that the operator was operating the Site; and,
 - e. Any documents relating to the operator's disposal of wastes at the Site or on-site activities that may have led to the production of wastes at the Site. If you are aware of any such documents that are not in your possession, please indicate the location of the documents.
4. Describe your property at the time it was acquired, including whether there were any buildings, installations, equipment, areas of fill, or other man-made features at the Site prior to the Town's ownership of the property.
5. Explain whether the Town ever performed any environmental assessment at the Site prior to or at any time after acquiring an ownership interest in the property. If so, please provide the details of the environmental assessment(s) and provide copies of all of the related documents. Explain whether you are aware of any other previous environmental assessments that have been performed at the property. If so, provide the details of those other environmental assessments and provide copies, if available.
6. Describe in detail how the Town became aware of the presence of the hazardous substances located at the Site. Further indicate any findings relating to hexachlorocyclohexane ("HCH")-containing material during earth moving activities conducted at the Site, such as construction of structures, fence installation, expansion of the garage, and any other activity that may have led to additional discoveries of contaminated material not already documented.
7. Discuss any and all assessments, investigations and/or remediation or removal efforts taken as a result of the discovery of HCH-containing material at the Site. Provide all analytical data from samples collected as part of any investigation or confirmation of contaminated areas on the Site.
8. Identify all individuals with knowledge of facts relating to the responses provided to this Request for Information. Identify each individual who assisted or was consulted or who answered on behalf of the Town in the preparation of its response to this Request for Information, and specify the question with which each person assisted in responding.

9. Please provide any additional information or documents that may help EPA identify other parties that may have been the source of, or otherwise been responsible for, the hazardous substances or industrial wastes that came to be located on your property. Identify the source(s) of your information.
10. In addition, identify all individuals (other than those identified in your response to Question 8) who may have information or documents relating to the generation, handling, storage, transportation, or disposal of the hazardous substances or industrial wastes that came to be located on your property.

APPENDIX A

**NIAGARA TOWN GARAGE
SITE LOCATION MAP**



W Brillon Dr

Lockport Rd

Joanne Cir N

Woodland Ave

E Brillon Dr



6500 ft

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION
Niagara Town Garage Site, Niagara, Niagara County, New York

State of _____:

County of _____:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that I am under a continuing obligation to supplement my response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or my response thereto should become known or available to me.

NAME (print or type)

TITLE (print or type)

SIGNATURE

Sworn to before me this
_____ day of _____, 2015

Notary Public

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CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Town of Niagara
7015 Lockport Road
Niagara Falls, NY 14305
Attn: Mr. Lee S. Wallace
Town Supervisor

Re: Request for Information Pursuant to Section 104 of CERCLA
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CONCURRENCES

Name: MARGO LUDMER							
Init:ML		Date:11/12/2015		Filename:TownofNiagara104eNiagaraTownGarageV4			
Symbol	ORC	ORC	ORC	ERRD-RAB	ERRD-RAB	ERRD-RAB	ERRD
Surname	LUDMER	DOYLE	LIEBER	GLENN	WILSON	FOZDKA	DIFORTE
Date				11/18/2015	11/18/15	11/18/15	

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Assistant Regional Counsel
New York/Caribbean Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region II
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New York, New York 10007

ENVIRONMENTAL PROTECTION AGENCY

REGION 2

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Town of Niagara
7015 Lockport Road
Niagara Falls, NY 14305
Attn: Mr. Lee S. Wallace
Town Supervisor

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Here

PS Form 3800, August 2006

See Reverse for Instructions